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09/755,355	01/05/2001	Robert E. Dvorak	BLFR 1002-1	3933

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HALF MOON BAY, CA 94019	ART UNIT	PAPER NUMBER
	3623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/755,355	DVORAK ET AL.
	Examiner	**Art Unit**	
	BETH VAN DOREN	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>26 June 2007</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-15 and 39-42* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-15 and 39-42* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   The following is a Final office action in response to communications received

06/26/2007. Claims 1, 39, and 41 have been amended. Claims 1-15 and 39-42 are pending.

Response to Amendment

2.   Applicant's amendments to claims 1, 39, and 41 have overcome the 35 USC 112, second

paragraph, rejections set forth below. However, these amendments have raised new 35 USC

112, first paragraph, rejections, which are asserted below.

Response to Arguments

3.   Applicant's arguments with regards to the 35 USC 112, first paragraph, rejections set

forth in the previous office action have been fully considered, but they are not persuasive. In the

remarks, Applicant argues that there is support for "cloning daily sales history data", citing

original claim 41 and specification page 4, lines 23 and 31-32.

In response to this argument, examiner respectfully disagrees. See discussion below with

respect the 35 USC 112, first paragraph, rejection. Page 2, lines 17-25, of the specification

discloses an interval being selected for tracking/monitoring actual sales. Original claim 41 does

recite the term daily in the context of the monitoring/tracking interval in daily or more frequent

periods. However, this does not support how cloning is accomplished, but rather is an

established interval for reviewing sales data. Applicant notes page 4 of the specification. Page 4

recites using actual sales data to search to search for a good, **other than the cloned good,** which

more closely matches actual sales of the other good. Again, this does not provide written

description for how cloning is accomplished. Therefore, Examiner respectfully maintains that

"cloning daily sales history data" was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventors, at the time the application

was filed, had possession of the claimed invention.

4.   Applicant's arguments with regards to the rejections based on Beyer et al. (U.S.

6,978,249) have been fully considered, but they are not persuasive. In the remarks, Applicant

argues that (1) Beyer is concerned with the life-cycle of an individual good, but does not teach

anything about day by day inventory demands at a retail level, (2) Beyer does not teach or

suggest creating cloned sales history for goods at particular retail locations, scaling cloned sales

history data for individual selling retail locations, or rescaling cloned daily sales history data

(instead Beyer normalizes and averages), (3) Beyer does not teach or suggest data for particular

products at particular locations and that it is clear, since the claim says actual sales data instead

of average sales data, that the sales history concerns particular locations rather than regions, (4)

as per claims 8-9, Beyer does not teach or suggest a persistent data set that is modified and

retained and examiner gave claims 8-9 the same interpretation as 10, 11, 14, and 15, (5) as per

claims 10-11 and 14-15, Beyer does not teach or suggest scaling a cloned daily sales history by

storing a scaling factor that applies to the discrete data and Beyer's math is entirely different

from what Applicant's claim, and (6) with respect to claims 6-7, examiner is confusing passing

parameters by value with use of pointers and miscomprehends the use of addressing schemes,

and the Applicant respectfully requests an Examiner's Declaration (see page 14 of remarks)

In response to argument (1), Examiner respectfully disagrees. First, as asserted below in

the 35 USC 112, first paragraph, rejections, there is not sufficient written description for daily

sales being cloned from past daily sales history, and thus this is being construed as cloned sales

history and past sales history. Second, it is noted that the features upon which applicant relies

(i.e., inventory and retail levels) are not recited in the rejected claim(s). Although the claims are

interpreted in light of the specification, limitations from the specification are not read into the

claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Beyer et al

does disclose that goods are sold at locations and that this actual sales data is tracked. When a

new product is to be introduced to market, a cloned good is created based on actually collected

sales data of similar products, such as those in the product family. Cloned means to imitate or

make a copy. Therefore, the cloned good is an imitation good produced (and not an actual good

sold per se). See figures 2 and 4, column 1, lines 30-56, column 2, lines 40-55, column 3, lines

37-55, column 4, lines 1-20 and 40-50, column 8, lines 64-67,wherein sales history data for a

product (cloned product) that closely resembles another, new product is associated with this new

product

In response to arguments (2) and (3), Examiner respectfully disagrees. First, claim 1

recites sales history data for sales of a cloned good at a plurality of locations. Therefore, the

claim does not require particular products at particular locations. In fact the claim uses the term

"good" singularly, this good being at a plurality of selling locations. Further, the claim recites

"an other good" singularly also with respect to a plurality of selling locations. Nothing recited

limits the scope to "particular products at particular locations". Further, examiner is unclear how

the term "actual sales data" limits the claim to such an interpretation. Actual sales data is real

sales data, so data that has actually existed. Thus, if a singular product is sold at multiple

locations in the past, the real or actually occurring data can be collected and compiled from those

multiple locations. Further, see the 35 USC 112, first paragraph, rejection for the interpretation

of cloned and other goods. See Beyer, figures 2 and 4, column 1, lines 30-56, column 2, lines 40-55, column 3, lines 37-55, column 4, lines 1-20 and 40-50, column 8, lines 64-67, which teaches collecting data for a product.

Second, Beyer et al. does teach scaling when it discloses adjusting the sales history for the new product by using a factor that results in an estimate of demand for the new product. See figure 5, column 4, lines 50-65, column 9, lines 55-65. See figure 5, column 5, lines 25-45, column 9, line 65-column 10, line 30, which discloses rescaling the sales history data based on received demand data to adjust the calculated amount.

In response to argument (4), Examiner respectfully disagrees. First, as asserted above in the 35 USC 112, first paragraph, rejections, there is not sufficient written description for creating cloned daily sales histories and thus this is being construed as cloned sales history. Further, it is noted that the features upon which applicant relies (i.e., a persistent data set) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims never recite that there is a persistent file created and there is no reason, based on the claim language, to construe the history data as such. Beyer et al. does teach rescaling the cloned sales history data based on actual sales of the other good during the interval in figure 5, column 5, lines 25-45, column 9, line 65-column 10, line 30. These areas of Beyer et al. disclose adjusting the sales history data based on received demand data to adjust the calculated amount. Further, figures 2 and 4, column 4, lines 10-20 and 35-67, column 5, lines 25-45, disclose that the associated sales history is modified when associated with the new

product. Thus, Beyer teaches "modifying the cloned daily sales history data" as required by the

claim.

Further, applicant alleges that examiner gave claims 8-9 the same interpretation as 10, 11,

14, and 15. The following are the rejections given by examiner with respect to these claims:

> As per claims 8 and 9, Beyer et al. discloses scaling the cloned sales history data including modifying the cloned sales history data (See figures 2 and 4, column 4, lines 10-20 and 35-67, column 5, lines 25-45, wherein the associated sales history is modified when associated with the new product).
> As per claims 10, 11, 14, and 15, Beyer et al. discloses wherein scaling and rescaling the cloned sales history data includes storing a scaling factor to be applied to the cloned sales history data (See column 4, lines 21-34 and 55-67, column 7, lines 30-67, column 8, lines 5-35, column 9, lines 20-37, and column 10, lines 20-30, wherein the sales history is scaled and rescaled using factors, such as time, run-rate, and standard deviation).

Note that both the rationale and the areas of art cited are different in each instance.

Therefore, she did not give these claims the same interpretation.

In response to argument (5), Examiner respectfully disagrees. See column 4, lines 21-34

and 55-67, column 7, lines 30-67, column 8, lines 5-35, column 9, lines 20-37, and column 10,

lines 20-30, wherein the sales history is scaled and rescaled using factors, such as time, run-rate,

and standard deviation. Such a factor is stored in the system and used to scale and rescale the

sales history data.

In response to argument (6), Applicant has attempted to challenge the Examiner's taking

of Official Notice. There are minimum requirements for a challenge to Official Notice:

(a)   In general, a challenge, to be proper, must contain adequate information or

arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying

the Official Notice

(b)   Applicants must seasonably traverse (challenge) the taking of Official Notice as

soon as practicable, meaning the next response following an Office Action. If an applicant fails

to seasonably traverse the Official Notice during examination, his right to challenge the Official

Notice is waived. MPEP 2144.03(c)

Examienr first notes that if applicant properly challenges the official notice, she is given

the option of providing a reference to support her allegation *or* she can provide a declaration (i.e.

she is not required to provide the declaration asserted by Applicant). Second, Applicant has not

provided adequate information or arguments so that *on its face* it creates a reasonable doubt

regarding the circumstances justifying the Official Notice. Applicant does not provide evidence

as to why the noticed fact is not considered to be common knowledge or well-known in the art.

Instead, Applicant states that examiner is confusing passing parameters with the use of pointers

(not asserted in the official notice) and miscomprehends addressing schemes, but does not state

why this is the case. Examiner is not clear as to what the supposed error is in her Official Notice.

Therefore, the presentation of a reference to substantiate the Official Notice is not deemed

necessary. The Examiner's taking of Official Notice has been maintained.

5.   Applicant's arguments with regards to the rejections based on Beyer et al. in view of

Ando (U.S. 6,032,125) have been fully considered, but they are not persuasive. In the remarks,

Applicant argues that (7) Ando does not teach or suggest rescaling repeatedly on a predetermined

cycle and that neither reference teaches the underlying technique of rescaling cloned daily sales

history.

In response to argument (7), Examiner respectfully disagrees. First, rescaling cloned

daily sales history has been addressed in the arguments above. Beyer et al. further teaches

wherein the rescaling takes place after the interval without intervention of a user. See column 3,

lines 53-57, column 5, lines 25-45, wherein the forecasting system, including the updating

module, operates without human intervention. Ando was relied upon to disclose

rescaling/reconsidering the data repeatedly on a predetermined cycle beginning at the end of the

interval. See figures 3, 4, and 7, column 2, lines 1-20, 30-40, and line 66-column 3, line 3,

column 4, lines 20-30, column 6, lines 55-65, wherein the scaling occurs to deal with

fluctuations that occur with respect to demand predictions. Ando is specifically concerned with

repeated model optimization based on demand fluctuation. Thus, Ando does teach and suggest

rescaling repeatedly on a predetermined cycle.

6.   Applicant's arguments with regards to the rejections based on Beyer et al. in view of

Singh (U.S 7,080,026) have been fully considered, but they are not persuasive. In the remarks,

Applicant argues that (8) the provisional of Singh (60/243,425) does not support the non-

provisional and therefore Singh does not qualify as prior art, and (9) Singh does not teach or

suggest comparing the actual sales to the sales history data for a set of candidate goods and

evaluating whether the sales history of one or more of the candidate goods better matches said

actual sales than the cloned daily sales history data, and (10) examiner makes a conclusory

assertion concerning the combination of Beyer and Singh.

        In response to argument (8), Examiner respectfully disagrees. Applicant has not provided

evidence of how the provisional application of Singh does not support the rejection asserted by

the examiner. Applicant alleges on page 16 of the remarks that the Singh provisional does not

support the Singh non-provisional relied upon by Examiner, but has not cited any specific

deficiencies or sections that are not supported. Examiner has properly established a prima facie

case of obviousness and Applicant has not provided specific arguments to challenge her position.

Therefore, examiner maintains her rejection.

In response to argument (9), Examiner respectfully disagrees. Singh et al. was relied

upon to teach comparing product forecasts and sales to other related products to adjust the

forecasts. Singh discloses taking available history data and based on comparisons, choosing the

best data for the situation to perform forecasting. Data is updated on an ongoing basis to adjust

forecasts by identifying better and more applicable data. Singh discloses establishing demand

groups. This allows product forecasts and sales to be compared to other related products to

adjust the forecasts. See column 3, line 50-column 4, line 5 and line 65-column 5, line 7, column

6, lines 35-60, column 13, lines 40-55, column 15, lines 50-65, column 17, lines 20-31 and line

59-column 18, line 5). Thus, Singh was not relied on to teach cloned or other goods, but the

concept of iterative tuning and the ability to compare actual sales data within a demand group to

better forecast demand.

In response to argument (10), Examiner respectfully disagrees. Examiner reminds

applicant that KSR has foreclosed the argument that a specific teaching, suggestion, or

motivation is required to support a finding of obviousness. Examiner has laid out what each

reference teaches. First, Beyer et al. discloses storing sales history data for goods as associated

when the goods are in a product family, where the product family shares certain life-cycle

characteristics, such as monthly demand profiles. Beyer et al. also discloses grouping a new

product with a product family before any sales data is known about the product and then

comparing the new product with the product family as actual sales data is collected. Singh et al.

discloses comparing product forecasts and actual sales with related products in the same demand

groups. Therefore, this is analogous prior art, both reasonably pertinent to the problem solved.

The motivation provided by examiner is consistent with the teachings of both references.

7.   Applicant's arguments with regards to the rejections based on Beyer et al. in view of

Singh and in further view of Ando (U.S. 6,032,125) have been fully considered, but they are not

persuasive. In the remarks, Applicant argues that (11) Ando does not teach daily or monthly

forecasting.

In response to argument (11), Examiner respectfully disagrees. See specifically column

2, line 65-column 3, line 5, which discusses daily forecasting. Since Ando and Beyer et al. both

disclose demand forecasting for a product using a profile of historic data, wherein the forecasts

are reanalyzed an updated over time intervals and Ando discloses forecasting and

learning/adjusting on forecasting periods such as daily, the combination of these references,

along with Singh, do teach and suggest the limitations.

Claim Rejections - 35 USC § 112

8.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

9.   Claims 1-15 and 39-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement. The claims contains subject matter which was

not described in the specification in such a way as to reasonably convey to one skilled in the

relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Claims 1-15 recite "cloning daily sales history data". However, examiner is unable to find support in the specification for this limitation. The summary of the invention on page 1, lines 13-20, and the detailed description, page 1, line 28-page 2, line 7, disclose cloning goods sales history data. However, there is no mention of this sales history data being daily (or of any specific timeframe for that matter). The only place timeframes are discussed are on page 2, lines 17-25, which discloses an interval being selected for tracking/monitoring actual sales. The only place that the term daily appears is in original claim 41, which states that the monitoring/tracking interval is daily or more frequent periods. However, even if this was incorporated into the specification, there is still no implication that the sales history data is cloned in daily increments. As an example, if a retail store maintained and forecasted weekly sales data, the store could still monitor actual data daily to see the progress towards the weekly totals. Therefore, Examiner respectfully submits that "cloning daily sales history data" was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Further, Claim 1 recites "<u>cloning</u> daily sales history <u>data for</u> sales of <u>a cloned good</u> at a plurality of selling locations <u>from actual</u> daily <u>sales</u> history <u>data of an other good</u> sold at the plurality of selling locations", "scaling the cloned daily sales history data upward or downward based on anticipated sales of the <u>cloned good</u>", "tracking actual sales of the <u>cloned</u> good for an interval", and "rescaling the cloned sales history data based on actual sales of the <u>cloned</u> good during the interval". Thus, the claim recites that data for a cloned good is cloned from the actual

data of an "other good". The claim then goes on to recite that the actual data of the cloned good

is tracked and used to rescale the associated data. Thus, the claim recites that the other good is a

known good with known sales data and it is the cloned good that is supplied with sales history

data, scaled, tracked, and rescaled. This seems to contradict the specification, which states on

pages 1-2 that sales history data for sales of a cloned good is associated with an other good (that

lacks a sales history), that the associated sales history data is scaled based on anticipated sales of

the other good, that the actual sales of the other good is tracked and that the associated sales

history data is rescaled based on the actual sales data collected. Thus, the specification states

that the cloned good is the food with actual sales history data and that the "other good" is a "new,

other good", where "a sales history for a new good, lacking its own sales history, can be created

from a cloned good" (specification, page 1, line 29-page 2, line 2). Therefore, Examiner

respectfully submits that cloning daily sales history data for sales of a cloned good from actual

daily sales history data of an other good, scaling the cloned daily sales history data based on

anticipated sales of the cloned good, tracking actual sales of the cloned good, and rescaling the

cloned sales history data based on actual sales of the cloned good was not described in the

specification in such a way as to reasonably convey to one skilled in the relevant art that the

inventors, at the time the application was filed, had possession of the claimed invention.

Examiner construes, for examination purposes, that the other good of the claim is meant to be the

cloned good of the specification and vice versa. Clarification is required.

Claims 2-15 depend from claim 1 and therefore contain the same deficiencies

Claim 39 recites similar limitations to claim 1 and is rejected for the same reasons set

forth above.

Claims 40-42 depend from claim 39 and therefore contain the same deficiencies.

Claim Rejections - 35 USC § 102

10.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11.   Claims 1, 2, and 8-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Beyer

et al. (U.S. 6,978,249).

As per claim 1, Beyer et al. teaches a computer implemented method of supplying a sales

history for a good lacking a sales history, including:

cloning sales history data for sales of an other good at a plurality of selling locations from

actual daily sales history data of a good sold (i.e. cloned good) at the plurality of selling locations

(See figures 2 and 4, column 1, lines 30-56, column 2, lines 40-55, column 3, lines 37-55,

column 4, lines 1-20 and 40-50, column 8, lines 64-67,wherein sales history data for a product

that closely resembles another, new product is associated with this new product);

scaling the cloned sales history data upward or downward based on anticipated sales of

the other good (See figure 5, column 2, lines 50-67, column 4, lines 50-65, column 9, lines 55-

65, wherein the sales history data is adjusted to calculated expected sales);

tracking actual sales of the other good for an interval (See column 1, lines 30-56, column 5, lines 25-45, column 9, line 65-column 10, line 30, wherein actual sales and demand are tracked over an interval); and

rescaling the cloned sales history data based on actual sales of the other good during the interval (See figure 5, column 5, lines 25-45, column 9, line 65-column 10, line 30, which discloses rescaling the sales history data based on received demand data to adjust the calculated amount).

As per claim 2, Beyer et al. teaches wherein the rescaling takes place after the interval without intervention of a user (See column 3, lines 53-57, column 5, lines 25-45, wherein the forecasting system, including the updating module, operates without human intervention).

As per claims 8 and 9, Beyer et al. discloses scaling the cloned sales history data including modifying the cloned sales history data (See figures 2 and 4, column 4, lines 10-20 and 35-67, column 5, lines 25-45, wherein the associated sales history is modified when associated with the new product).

As per claims 10, 11, 14, and 15, Beyer et al. discloses wherein scaling and rescaling the cloned sales history data includes storing a scaling factor to be applied to the cloned sales history data (See column 4, lines 21-34 and 55-67, column 7, lines 30-67, column 8, lines 5-35, column 9, lines 20-37, and column 10, lines 20-30, wherein the sales history is scaled and rescaled using factors, such as time, run-rate, and standard deviation).

As per claims 12 and 13, Beyer et al. discloses rescaling the cloned sales history data including modifying the cloned sales history data (See figure 5, column 5, lines 25-45, column 9,

line 65-column 10, line 30, wherein the rescaling modifies data associated with the original sales

history to generate an updated sales plan for the new product).

Claim Rejections - 35 USC § 103

12.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

13.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer et al. (U.S.

6,798,249) in view of Ando (U.S. 6,032,125).

As claim 3, Beyer et al. discloses wherein the rescaling takes place after new data

becomes available (See figure 5, column 5, lines 25-45, column 9, line 65-column 10, line 30).

Beyer et al. further teaches wherein the rescaling takes place after the interval without

intervention of a user (See column 3, lines 53-57, column 5, lines 25-45, wherein the forecasting

system, including the updating module, operates without human intervention). However, Beyer

et al. does not expressly disclose that the rescaling takes place repeatedly on a predetermined

cycle beginning at the end of the interval.

Ando discloses wherein rescaling/reconsidering the data repeatedly on a predetermined

cycle beginning at the end of the interval (See figures 3, 4, and 7, column 2, lines 1-20, 30-40,

and line 66-column 3, line 3, column 4, lines 20-30, column 6, lines 55-65, wherein the scaling

occurs).

Both Ando and Beyer et al. disclose demand forecasting for a product using a profile of historic data. Both the systems are computer-implemented. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the updates of Beyer et al. occur in predetermined cycles, such as the predetermined assessments of Ando, in order to increase the speed to action of the system by causing the assessments to occur on a definable, on-going basis. See column 2, lines 1-20 and 30-40, which discloses the precision of repeated model optimization based on demand fluctuation.

14.   Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer et al. (U.S. 6,798,249) in view of Crosswhite (U.S. 6,611,726).

As per claims 4 and 5, Beyer et al. teaches wherein cloning sales history data includes retrieving the sales history data (See column 4, lines 10-20 and 34-41, column 5, lines 40-67, column 6, lines 20-35, wherein the data is extracted). However, Beyer et al. does not expressly disclose that this sales history data is copied.

Crosswhite discloses forecasting using historical data, such as prior product demand, wherein a copy of the located historical data is retrieved (See column 8, lines 27-35 and line 55-column 9, line 25, wherein a copy of the data associated with the forecast is retrieved).

Both Crosswhite and Beyer et al. disclose using historical sales data concerning a product to perform forecasting, where the sales data is retrieved from a database. It would have been obvious to one of ordinary skill in the art at the time of the invention to retrieve a copy of the data (instead of the data itself) in order to increase the integrity of the originally stored data by only manipulating a copy of such data, thus increasing the chance that the retrieved data is

representative of normal data, containing no data anomalies. See column 9, lines 15-35, which

discuss flaws in retrieved data.

15.   Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer et al.

(U.S. 6,798,249).

As per claims 6-7, Beyer et al. teaches wherein cloning sales history data includes

retrieving the sales history data (See column 4, lines 10-20 and 34-41, column 5, lines 40-67,

column 6, lines 20-35, wherein the data is extracted). However, Beyer et al. does not expressly

disclose that this sales history data is retrieved using a reference or a pointer.

Beyer et al. discloses using historical sales data concerning a product to perform

forecasting, where the sales data is retrieved from a database. Examiner takes official notice that

it is old and well known in the programming arts that a reference is a small <u>object</u> containing

information which refers to data elsewhere, as opposed to containing the data itself. Further,

Examiner takes official notice that it is old and well known in the programming arts that pointers

are a specific type of reference whose values are used to refer to ("point to") another value stored

elsewhere in computer memory. Both pointers and references have the known benefits of being

able to manipulate references to data without actually having to modify the data itself. Further,

pointers and references increase flexibility in where objects can be stored, how they are

allocated, and how they are passed between areas of code, making the sharing of data between

different code areas easier. Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention to use references and pointers to retrieve the data from the

databases in Beyer et al. in order to increase the flexibility of the system based on the known

benefits of pointers and references, discussed above.

16.   Claims 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer

et al. (U.S. 6,798,249) in view of Singh et al. (U.S. 7,080,026).

Claim 39 recites equivalent limitations to claim 1 and therefore is rejected using the same

art and rationale as set forth above in the rejection of claim 1. Beyer et al. further discloses

comparing the actual sales of the good to the sales history data of the cloned good (See column

5, lines 25-45, column 7, lines 54-67, column 9, line 65-column 10, line 30). Beyer et al. further

discloses grouping products into product families with similar historical demand patterns (See

column 3, lines 39-56, column 7, lines 54-67, wherein products are grouped into product

families). However, Beyer et al. does not expressly disclose comparing the actual sales to the

sales history data for a set of candidate goods and evaluating whether the sales history of one or

more of the candidate goods better matches said actual sales.

Singh et al. discloses comparing product forecasts and sales to other related products to

adjust the forecasts (See column 3, line 50-column 4, line 5 and line 65-column 5, line 7, column

6, lines 35-60, column 7, lines 20-35, column 8, lines 25-35, which discloses comparing product

forecasts to other related products. See also column 13, lines 40-55, column 15, lines 50-65,

column 17, lines 20-31 and line 59-column 18, line 5).

Beyer et al. discloses storing sales history data for goods as associated when the goods

are in a product family. Beyer et al. further discloses that this product family shares certain life-

cycle characteristics, such as monthly demand profiles. Beyer et al. also discloses grouping a

new product with a product family before any sales data is known about the product and then

comparing the new product with the product family as actual sales data is collected. Singh et al.

discloses comparing product forecasts and acutal sales with related products in the same demand

groups. It would have been obvious to one of ordinary skill in the art at the time of the invention

to compare the new product with another product family and evaluate whether there is a good

that better matches the new good in order to more accurately forecast for items in the future by

ensuring that like products are grouped together.

As per claim 42, Beyer et al. discloses wherein the comparing and evaluating take place

after the actual sales interval, without intervention of the user (See figure 5 and column 3, lines

53-57, column 5, lines 25-45, column 9, line 65-column 10, line 30, wherein the forecasting

system, including the updating module, operates without human intervention).

17.   Claims 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beyer et al.

(U.S. 6,798,249) in view of Singh et al. (U.S. 7,080,026) in further view of Ando (U.S.

6,032,125).

As per claim 40, Beyer et al. discloses tracking actual sales of the other good for an

interval (See column 1, lines 30-56, column 5, lines 25-45, column 9, line 65-column 10, line 30,

wherein actual sales and demand are tracked over an interval). However, Beyer et al. does not

expressly disclose that the actual sales interval includes a plurality of causal periods and

evaluating takes place on a causal period by causal period basis. Singh et al. discloses causal

factors (See at least column 3, line 55-column 4, line 5, column 8, lines 60-67), but does not

expressly diclose sales intervals evaluated on a causal period by causal period basis.

Ando discloses a sales interval with a plurality of sales intervals that are evaluated on a causal period by causal period basis (See figures 3, 4, and 7, column 2, lines 1-20, 30-40, and line 66-column 3, line 3, column 4, lines 20-30, column 6, lines 55-65, wherein the forecast is broken down into shorter periods for evaluation).

Beyer et al. discloses storing sales history data for goods as associated when the goods are in a product family. Beyer et al. further discloses that this product family shares certain life-cycle characteristics, such as monthly demand profiles. Beyer et al. also discloses grouping a new product with a product family before any sales data is known about the product and then comparing the new product with the product family as actual sales data is collected. Singh et al. discloses comparing product forecasts and actual sales with related products in the same demand groups. It would have been obvious to one of ordinary skill in the art at the time of the invention to compare the new product with another product family and evaluate whether there is a good that better matches the new good in order to more accurately forecast for items in the future by ensuring that like products are grouped together.

Further, Both Ando and Beyer et al. disclose demand forecasting for a product using a profile of historic data. Both the systems are computer-implemented. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the updates of Beyer et al. occur in predetermined cycles, such as the predetermined assessments of Ando, in order to increase the speed to action of the system by causing the assessments to occur on a definable, on-going basis. See column 2, lines 1-20 and 30-40, which discloses the precision of repeated model optimization based on demand fluctuation.

As per claim 41, Beyer et al. discloses tracking actual sales of the other good for an interval and evaluating takes place on this interval basis (See column 1, lines 30-56, column 5, lines 25-45, column 9, line 65-column 10, line 30, wherein actual sales and demand are tracked over an interval). However, neither Beyer et al. nor Singh et al. disclose that this actual interval is daily or more frequent periods.

Ando discloses an actual interval that is short/daily (See column 2, line 65-column 3, line 5, wherein daily forecasting occurs).

Beyer et al. and Singh et al. are combinable for the reasons set forth above. Further, both Ando and Beyer et al. disclose computer implemented systems that perform demand forecasting for a product using a profile of historic data, wherein the forecasts are reanalyzed an updated over time intervals. Ando discloses forecasting and learning/adjusting on forecasting periods such as daily. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a daily interval as the actual interval for reassessment in order to increase the speed to action of the system by causing the assessments to occur on a definable, on-going basis. See column 2, lines 1-20 and 30-40, which discloses the precision of repeated model optimization based on demand fluctuation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BETH VAN DOREN whose telephone number is (571)272-6737.

The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bvd
January 17, 2008

BETH VAN DOREN
PRIMARY EXAMINER